IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2007

CORAM:

THE HONOURABLE MR. JUSTICE P. JYOTHIMANI

W.P.No.25906 of 2007
&
M.P.No.1 of 2007

1.Rajalakshmi
2.S.Rajakumari
3.Dr.R.Rajagopal
Rep by his Power Agent
M.V.Vaidhyanathan
4.T.S.Ramanarayanan
5.Kalaiselvi Sriman Narayanan
6.K.Senthilkumar
Rep by his Power Agent
M.Kathirvel ... Petitioners

.Vs.

1.The Tahsildar,
Mylapore-Triplicane Taluk,
Chennai-600 028.

2.The Tamil Nadu Housing Board Limited,
rep by its Chairman, Anna Salai,
Nandanam, Chennai-600 035

R2 impleaded as per order of Court
dated 6.9.2007 in M.P.2/07 in W.P.25906/07

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records of the respondent comprised in its letter bearing Ref.No.O.Mu.A1/Pa.Ma/713/07-08 dated 18.07.2007 and quash the same and consequently direct the respondent to issue a joint patta in the name of the petitioners in respect of their lands admeasuring 1119.20 sq.mts comprised in Block No.M-10, Survey No.30/1 part and situate in L.B.Road, Thiruvanmiyur, Chennai.

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For Petitioner : Mr.R.Parhasarthy

For Respondents : Mr.N.SenthilKumar for R1
Government Advocate
Mr.R.Girirajan for R2 TNHB

O R D E R

This writ petition is filed against the order of the first respondent dated 08.07.2007 under which the first respondent, Tahsildar has rejected the application made by the petitioners to grant joint patta in their name in respect of property comprised in Block No.M-10, Survey No.30/1 part and situate in L.B.Road, Thiruvanmiyur, Chennai.

2. While rejecting the claim of joint patta, the first respondent, the Tahsildar, under the impugned order has decided as if the petitioners are entitled to use the portions which are levelled out for common purpose and therefore they are not given any right over the suit property for which also the claim of joint patta made. In view of the above said decision, the Tahsildar has rejected the issue of joint patta on the basis that it is to be used by the petitioners jointly.

3. The facts leading to this case are as follows;

Originally the properties belonging to Housing Board and consequently nearly 92 persons have purchased the property and the Housing Board has executed the necessary documents in favour of the occupants including the petitioners in respect of portion in Block No.M-10, Survey No.30/1 part and situate in L.B.Road, Thiruvanmiyur, Chennai. The entire extent of the properties comprised in M-10 is 1119.20 sq.mts as it is seen from the orientation sketch issued by the Housing Board. Therefore, by virtue of the above said sale deed executed by the Housing Board, who was the erstwhile owners, the petitioners have become joint owners of the property and the same are confirmed by the orientation sketch prepared by the Housing Board itself. However, in these circumstance, based on the sale deed, when the petitioners have approached the first respondent for issuance of joint patta in their name, the first respondent has chosen to pass the said impugned order.

4. The Housing Board, which was impleaded as the second respondent, has filed the counter affidavit. In the counter affidavit the second respondent has categorically stated that the properties have been sold to the petitioners and they have also issued No Objection Certificate in favour of the petitioners

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including the said Block area. The relevant portion is as follows;

Sl. No.	Name of the flat owner	Executant	Document No.& date	Flat No.
1	S.Rajalakshmi	S.Kunjammal	1440/07dt.26.02.07 in S.R.O. Saidapet	A
2	S.Rajakumari	Harihara Krishnan	2155/90 dt.5.7.90 in S.R.O. Saidapet	B
3	R.Rajagopal	P.Shanmuga velu	4322/98 dt.18.12.98 in SRO, Saidapet	C
4	T.S.Ramanarayanan	TNHB	5120/96 dt.13.11.96 in the SRO, Saidapet	D
5	Kalaiselvi Sriman	Kanagavalli	3218/92 dt.06.05.92 in the SRO, Saidapet	E
6	K.Senthilkumar	Sumitra Srinivasan	1709/93 dt.17.5.93 in the SRO, Saidapet	F

5. In view of the categoric stand taken by the Housing Board in the counter, clearly admitting the right and ownership of the petitioners in respect of the entire property, I do not see any reason as to how the first respondent can have jurisdiction to decide about the right of the title in respect of the property. What is expected by the first respondent is to give a joint patta as per the documents submitted by the petitioners stated to have been executed by the Housing Board and it is not open to him to go beyond.

6. Mr.N.Senthil Kumar, learned Government Advocate appearing for the first respondent would submit that as against the impugned order of the first respondent, an appeal lies to the Revenue Divisional Officer and therefore, the petitioners can be permitted to file an appeal and they can have redressal of their grievance. I do not agree with the said contention. On the face of it, the order is illegal, there is no necessity to drive the petitioners to approach the appellate authorities as enumerated above. The first respondent has clearly transgressed his right, limitation and

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jurisdiction and he is not the person to decide about the right and title of the properties especially when the erstwhile owner has made it very categoric about the ownership of the property. In view of the same, I have no hesitation to come to the conclusion that the order of the first respondent is totally without jurisdiction and liable to be set aside and accordingly the impugned order stands set aside. The first respondent is directed to take the application of the petitioners dated 14.06.2007 and pass appropriate orders granting joint patta if the application is otherwise in order. Such order shall be passed by the first respondent within a period of four weeks from the date of receipt of a copy of this order or on production of a copy of this order. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

jikr

To

1.The Tahsildar,
Mylapore-Triplicane Taluk,
Chennai-600 028.

2.The Chairman
Tamil Nadu Housing Board Limited,
Anna Salai,
Nandanam, Chennai-600 035

1 cc to Mr. Satish Parasaran, Advocate, Sr. 70836

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